been concealed or improperly transferred by the debtor, the availability of assets or income which may be realized by means of enforced collection proceedings.

(b) *Inability to locate debtor.* The debtor cannot be located, no security remains to be liquidated, the applicable statute of limitations has run, and the prospects of collecting by offset are too remote.

(c) *Death of debtor.* The debtor is determined to be deceased and the Government has no prospect of collection from his/her estate.

(d) *Cost will exceed recovery.* The cost of further collection effort is likely to exceed the amount recoverable.

(e) *Claim legally without merit.* Collection action should be terminated on a claim whenever it is determined that the claim is legally without merit.

(f) *Claim cannot be substantiated by evidence.* VA will terminate collection action on once asserted claims because of lack of evidence or unavailability of witnesses only in cases where efforts to induce voluntary payment are unsuccessful.

(g) *Discharge in bankruptcy.* Generally, VA shall terminate collection activity on a debt that has been discharged in bankruptcy, regardless of the amount. VA may continue collection activity, subject to the provisions of the Bankruptcy Code, for any payments provided under a plan of reorganization. Offset and recoupment rights may survive the discharge of the debtor in bankruptcy and, under some circumstances, claims also may survive the discharge.

(h) Before terminating collection activity, VA should have pursued all appropriate means of collection and determined, based upon the results of the collection activity, that the debt is uncollectible. Termination of collection activity ceases active collection of the debt. The termination of collection activity does not preclude VA from retaining a record of the account for purposes of:

(1) Selling the debt, if the Secretary of the Treasury determines that such sale is in the best interests of the United States;

(2) Pursuing collection at a subsequent date in the event there is a change in the debtor's status or a new collection tool becomes available;

(3) Offsetting against future income or assets not available at the time of termination of collection activity; or

(4) Screening future applicants for prior indebtedness.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501)

[32 FR 2615, Feb. 8, 1967, as amended at 52 FR 42111, Nov. 3, 1987; 69 FR 62200, Oct. 25, 2004]

§ 1.943 Exception to termination.

When a significant enforcement policy is involved, or recovery of a judgment is a prerequisite to the imposition of administrative sanctions, VA may refer debts for litigation even though termination of collection activity may otherwise be appropriate.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501)

[69 FR 62200, Oct. 25, 2004]

§ 1.944 Discharge of indebtedness; reporting requirements.

(a) Before discharging a delinquent debt (also referred to as a close out of the debt), VA shall take all appropriate steps to collect the debt in accordance with 31 U.S.C. 3711(g), including, as applicable, administrative offset, tax refund offset, Federal salary offset, referral to Treasury or Treasury-designated debt collection centers or private collection contractors, credit bureau reporting, wage garnishment, litigation, and foreclosure. Discharge of indebtedness is distinct from termination or suspension of collection activity under §§ 1.940 through 1.943 and is governed by the Internal Revenue Code (see 26 U.S.C. 6050P). When collection action on a debt is suspended or terminated, the debt remains delinquent and further collection action may be pursued at a later date in accordance with the standards set forth in §§ 1.900 through 1.953. When VA discharges a debt in full or in part, further collection action is prohibited. Therefore, VA should make the determination that collection action is no longer warranted before discharging a debt. Before discharging a debt, VA must terminate debt collection action.

(b) Upon discharge of an indebtedness, VA must report the discharge to the Internal Revenue Service (IRS) in accordance with the requirements of 26

U.S.C. 6050P and 26 CFR 1.6050P–1. VA may request Treasury or Treasury-designated debt collection centers to file such a discharge report to the IRS on VA's behalf.

(c) When discharging a debt, VA must request that any liens of record securing the debt be released.

(d) 31 U.S.C. 3711(i)(2) requires agencies to sell a delinquent nontax debt upon termination of collection action if the Secretary of the Treasury determines such a sale is in the best interests of the United States. Since the discharge of a debt precludes any further collection action (including the sale of a delinquent debt), VA may not discharge a debt until the requirements of §3711(i)(2) have been met.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501)

[69 FR 62200, Oct. 25, 2004]

REFERRALS TO GAO, DEPARTMENT OF JUSTICE, OR IRS

AUTHORITY: Sections 1.900 through 1.953 are issued under the authority of 31 U.S.C. 3711 through 3720E; 38 U.S.C. 501, and as noted in specific sections.

SOURCE: 52 FR 42111, 42112, Nov. 3, 1987, unless otherwise noted.

§ 1.950   Prompt referral.

(a) VA shall promptly refer debts to Department of Justice (DOJ) for litigation where aggressive collection activity has been taken in accordance with §§1.900 through 1.953, and such debts cannot be compromised, or on which collection activity cannot be suspended or terminated, in accordance with §§1.930 through 1.936 and §§1.940 through 1.944. Debts for which the principal amount is over $1,000,000, or such other amount as the Attorney General may direct, exclusive of interest and other late payment charges, shall be referred to the Civil Division or other division responsible for litigating such debts at DOJ. Debts for which the principal amount is $1,000,000, or less, or such other amount as the Attorney General may direct, exclusive of interest or penalties, shall be referred to DOJ's Nationwide Central Intake Facility as required by the Claims Collection Litigation Report (CCLR) instructions. Debts should be referred as early as possible, consistent with aggressive

agency collection activity and the observance of the standards contained in §§1.900 through 1.953, and, in any event, well within the period for initiating timely lawsuits against the debtors. VA shall make every effort to refer delinquent debts to DOJ for litigation within 1 year of the date such debts last became delinquent. In the case of guaranteed or insured loans, VA should make every effort to refer these delinquent debts to DOJ for litigation within 1 year from the date the loan was presented to VA for payment or reinsurance.

(b) DOJ has exclusive jurisdiction over the debts referred to it pursuant to this section. VA shall immediately terminate the use of any administrative collection activities to collect a debt at the time of the referral of that debt to DOJ. VA should advise DOJ of the collection activities that have been utilized to date, and their result. VA shall refrain from having any contact with the debtor and shall direct all debtor inquiries concerning the debt to DOJ. VA shall immediately notify DOJ of any payments credited to the debtor's account after referral of a debt under this section. DOJ shall notify VA, in a timely manner, of any payments it receives from the debtor.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501)

[69 FR 62200, Oct. 25, 2004]

§ 1.951   Claims Collection Litigation Report (CCLR).

(a) Unless excepted by the Department of Justice (DOJ), VA shall complete the CCLR, accompanied by a signed Certificate of Indebtedness, to refer all administratively uncollectible claims to DOJ for litigation. VA shall complete all of the sections of the CCLR appropriate to each claim as required by the CCLR instructions and furnish such other information as may be required in specific cases.

(b) VA shall indicate clearly on the CCLR the actions it wishes DOJ to take with respect to the referred claim.

(c) VA shall also use the CCLR to refer claims to DOJ to obtain approval of any proposals to compromise the